

MONTANA LEGISLATIVE HISTORY

Chapter 529 19 81

Bill H _____ S 258

Original bill & history ☒ C

H. Committee on State Admin

Hearing Date(s) 3-17 _____ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Natural Resources

Hearing Date(s) 2-11 ☒ C

2-26 ☒ C

_____ C

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No
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found
for State
Admin

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81
ACTION: 4/3, SIGNED
CHAPTER 255

SB 257 -- S. BROWN, BLAYLOCK -- AMENDING 2-18-501 TO INCREASE TRAVEL EXPENSES FOR PERSONS IN STATE SERVICE.

FISCAL NOTE: REQUIRED
INTRODUCED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 1/23
HEARING: 2/2
REPORT: 2/4, DO PASS AS AMENDED
2ND READING: 2/6, YEAS: 29; NAYS: 18

MOTION TO RECOMMIT: 2/7, DO PASS
RE-REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 2/7
HEARING: 2/12
REPORT: 2/12, DO PASS AS AMENDED
2ND READING: 2/14, YEAS: 28; NAYS: 21
3RD READING: 2/17, YEAS: 27; NAYS: 23

TRANSMITTED TO HOUSE: 2/17
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/18
HEARING: 3/5
REPORT: 3/5, BE CONCURRED IN, AS AMENDED
2ND READING: 3/9, AS AMENDED -- YEAS: 66; NAYS: 13
ON MOTION, 3/11, REREFERRED TO COMMITTEE ON APPROPRIATIONS.
HEARING: 3/27
REPORT: 3/31, BE CONCURRED IN, AS AMENDED
2ND READING: 4/6, YEAS: 73; NAYS: 15
ON MOTION, 4/6, RULES SUSPENDED, PLACED ON 3RD READING.
3RD READING: 4/6, YEAS: 64; NAYS: 30

RETURNED TO SENATE WITH AMENDMENTS: 4/6
2ND READING: 4/11, BE NOT CONCURRED
ON MOTION, 4/13, FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/15
SENATE
2ND READING: 4/20, BE CONCURRED IN
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/20, YEAS: 39; NAYS: 8

HOUSE
2ND READING: 4/22, YEAS: 71; NAYS: 10
ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/22, YEAS: 81; NAYS: 13

TRANSMITTED TO GOVERNOR: 4/29/81
ACTION: 5/1, SIGNED
CHAPTER 582

SB 258 -- S. BROWN -- TRANSFERRING FORESTRY FUNCTIONS TO DEPARTMENT OF STATE LANDS AND TRANSFERRING MINE SITING AND RECLAMATION TO DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION.

INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/23
HEARING: 2/11, 12:30 PM
REPORT: 2/21, DO PASS AS AMENDED
2ND READING: 2/24, YEAS: 44; NAYS: 3

3RD READING: 2/25, YEAS: 46; NAYS: 3

TRANSMITTED TO HOUSE: 2/25
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/2
HEARING: 3/17
EXECUTIVE SESSION: 3/26
REPORT: 3/27, BE CONCURRED IN, AS AMENDED
2ND READING: 3/30, AS AMENDED -- YEAS: 94; NAYS: 1
3RD READING: 3/31, YEAS: 95; NAYS: 1

RETURNED TO SENATE WITH AMENDMENTS: 3/31
2ND READING: 4/3, BE NOT CONCURRED -- YEAS: 35; NAYS: 12
ON MOTION, 4/7, REFERRED TO FREE CONFERENCE COMMITTEE

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/15
SENATE
2ND READING: 4/17, BE CONCURRED IN
ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/17, YEAS: 49; NAYS: 0

HOUSE
2ND READING: 4/20, YEAS: 84; NAYS: 2
ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/20, YEAS: 94; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/23/81
ACTION: 4/29, SIGNED
CHAPTER 529

SB 259 -- S. BROWN -- TO AUTHORIZE INCURRING LIABILITIES AND EXPENSES DURING AN ENERGY SUPPLY EMERGENCY.
INTRODUCED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 1/23
HEARING: 2/6
REPORT: 2/18, ADVERSE REPORT ADOPTED -- YEAS: 37; NAYS: 11
-- KILLED

SB 260 -- GOODOVER -- RELOCATING THE COAL SEVERANCE TAX MONEY AND INCREASING THE ALLOCATION TO THE GENERAL FUND.
FISCAL NOTE: REQUIRED
INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/23
HEARING: 2/6
REPORT: 3/26, ADVERSE REPORT ADOPTED -- YEAS: 37; NAYS: 9
-- KILLED

SB 261 -- THOMAS, HAZELBAKER -- AUTHORIZING BANKS AND SAVINGS BANKS TO SELL CREDIT LIFE AND DISABILITY INSURANCE.
INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND
INDUSTRY: 1/23
HEARING: 2/4
REPORT: 2/9, DO PASS
2ND READING: 2/11, DO PASS
3RD READING: 2/13, YEAS: 41; NAYS: 9

TRANSMITTED TO HOUSE: 2/13
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 2/14
HEARING: 3/9
REPORT: 3/9, BE CONCURRED IN
2ND READING: 3/12, YEAS: 85; NAYS: 3
3RD READING: 3/14, YEAS: 84; NAYS: 13

1 *Sen* BILL NO. *258*
2 INTRODUCED BY STEVE BRAUN
3 BY REQUEST OF THE OFFICE OF THE GOVERNOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO TRANSFER FORESTRY
6 FUNCTIONS OF THE DEPARTMENT OF NATURAL RESOURCES AND
7 CONSERVATION TO THE DEPARTMENT OF STATE LANDS; TO TRANSFER
8 THE MINE SITING AND RECLAMATION FUNCTIONS OF THE DEPARTMENT
9 OF STATE LANDS TO THE DEPARTMENT OF NATURAL RESOURCES AND
10 CONSERVATION; AMENDING SECTIONS 75-10-103, 75-10-203,
11 76-13-104, 76-13-106, 76-13-109, 80-8-110, 82-4-103,
12 82-4-223, 82-4-303, 82-4-306, 82-4-321, 82-4-421, AND
13 82-4-427, MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Functions of department of
17 natural resources and conservation transferred to department
18 of state lands. (1) The functions of protecting natural
19 resources from fire in Title 76, chapter 11, part 1; of
20 protection of forest resources in Title 76, chapter 13; of
21 appraising, protecting, and selling state timberlands in
22 Title 77, chapter 5; and of recommending closing lands to
23 hunting and fishing in fire danger areas under 87-3-106 are
24 transferred from the department of natural resources and
25 conservation to the department of state lands.

1 (2) Unless inconsistent with this act, any reference
2 to "department of natural resources and conservation" in
3 those sections is changed to "department of state lands".

4 (3) Any corresponding internal references shall be
5 changed by the code commissioner.

6 NEW SECTION. Section 2. Functions of board of natural
7 resources and conservation transferred to board of land
8 commissioners. (1) The functions of the board of natural
9 resources and conservation in Title 76, chapter 13, relating
10 to protection of forest resources are transferred to the
11 board of land commissioners.

12 (2) Unless inconsistent with this act, any reference
13 in that chapter to "board of natural resources and
14 conservation" is changed to "board of land commissioners".

15 (3) Any corresponding internal references shall be
16 changed by the code commissioner.

17 NEW SECTION. Section 3. Functions of department of
18 state lands transferred to department of natural resources
19 and conservation. (1) The functions of the department of
20 state lands of recording certificates of location of mining
21 claims under 82-2-102 are transferred to the department of
22 natural resources and conservation.

23 (2) Unless inconsistent with this act, any reference
24 to "department of state lands" in that section is changed to
25 "department of natural resources and conservation".

-2- INTRODUCED BILL

SB 258

(3) Any corresponding internal references shall be changed by the code commissioner.

~~NEW SECTION.~~ Section 4. Functions of board of land commissioners transferred to department of natural resources and conservation. (1) The functions of the board of land commissioners and commissioner of state lands in Title 82, chapter 4, concerning mine siting and reclamation are transferred to the department of natural resources and conservation and the director of that department.

(2) Unless inconsistent with this act, any reference to "board of land commissioners", "board", "department of state lands", or "department" is changed to "department of natural resources and conservation" or "department" (meaning the department of natural resources and conservation). Any reference to "commissioner of state lands" or "commission" is changed to "director of the department of natural resources and conservation" or "director" (meaning the director of natural resources and conservation).

(3) Any corresponding internal references shall be changed by the code commissioner.

Section 5. Section 75-10-103, MCA, is amended to read:
 "75-10-103. Definitions. Unless the context clearly requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of health and

environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Front-end organizational funds" means the state money to be loaned to local governments for initial operating capital, site evaluation and negotiation, final design engineering and cost estimates, construction contract documents, final contract negotiations with energy users, material markets, and waste suppliers, contract negotiations with private operational managers, and financial and legal consultations.

(4) "Front-end planning funds" means the state money granted to local governments for contract negotiations between local governments, predesign engineering and cost estimates, administrative costs, preliminary contract negotiations with energy users and waste suppliers, financial feasibility analysis by a financial consultant, legal consultations, opinions, and review of contracts.

(5) "Local government" means a county, incorporated city or town, or refuse disposal district organized under the laws of this state.

(6) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other state, federal, or private

entity, whether organized for profit or not.

(7) "Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(8) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, hazardous wastes, ashes, sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; septic tank and cesspool pumpings; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; wood wastes and inert materials; but does not include municipal sewage, industrial wastewater effluents, or mining wastes as regulated under the mining and reclamation laws administered by the department of ~~state--lands~~ natural resources and conservation.

(9) "Solid waste management system" means any system which controls the storage, treatment, recycling, recovery, or disposal of solid waste.

(10) "State solid waste plan" means the statewide plan formulated by the department as authorized by this part."

Section 6. Section 75-10-203, MCA, is amended to read:

"75-10-203. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or onto the land so that the solid waste or hazardous waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(4) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which may cause or contribute to an increase in mortality or an increase in serious illness, taking into account the toxicity of the waste, its persistence and degradability in nature, its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms. Hazardous wastes include but are not limited to those which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means, excluding wood chips

1 and wood used for manufacturing or fuel purposes.

2 (5) "Hazardous waste management" means the management
3 of the storage, transport, treatment, recycling, recovery,
4 or disposal of hazardous wastes.

5 (6) "Person" means an individual, firm, partnership,
6 company, association, corporation, city, town, local
7 governmental entity, or any other governmental or private
8 entity, whether organized for profit or not.

9 (7) "Resource recovery" means the recovery of material
10 or energy from solid waste.

11 (8) "Resource recovery facility" means a facility at
12 which solid waste is processed for the purpose of
13 extracting, converting to energy, or otherwise separating
14 and preparing solid waste for reuse.

15 (9) "Resource recovery system" means a solid waste
16 management system which provides for the collection,
17 separation, recycling, or recovery of solid wastes,
18 including disposal of nonrecoverable waste residues.

19 (10) "Solid waste" means all putrescible and
20 nonputrescible wastes, including but not limited to garbage;
21 rubbish; refuse; hazardous wastes; ashes; sludge from sewage
22 treatment plants, water supply treatment plants, or air
23 pollution control facilities; construction and demolition
24 wastes; dead animals, including offal; discarded home and
25 industrial appliances; and wood products or wood byproducts

1 and inert materials. "Solid waste" does not mean municipal
2 sewage, industrial wastewater effluents, mining wastes
3 regulated under the mining and reclamation laws administered
4 by the department of ~~state--lands~~ natural resources and
5 conservation, slash and forest debris regulated under laws
6 administered by the department of ~~natural--resources--and~~
7 conservation state lands, or marketable wood byproducts.

8 (11) "Solid waste management system" means a system
9 which controls the storage, treatment, recycling, recovery,
10 or disposal of solid waste.

11 (12) "Storage" means the actual or intended containment
12 of wastes, either on a temporary basis or for a period of
13 years.

14 (13) "Transport" means the movement of wastes from the
15 point of generation to any intermediate points and finally
16 to the point of ultimate storage or disposal.

17 (14) "Treatment" means a method, technique, or process,
18 including neutralization, designed to change the physical,
19 chemical, or biological character or composition of any
20 solid waste so as to neutralize the waste or so as to render
21 it nonhazardous, safer for transport, amenable for recovery,
22 amenable for storage, or reduced in volume."

23 Section 7. Section 76-13-104, MCA, is amended to read:
24 "76-13-104. Functions of department. (1) The
25 department may give technical and practical advice

concerning forest, range, water, and soil conservation and the establishment and maintenance of woodlots, windbreaks, shelterbelts, and forest fire protection.

(2) The department shall cooperate with all public and other agencies in the development, protection, and conservation of the forest, range, and water resources in this state.

~~(3) The department shall assist the department of state lands in the protection, economic development, and use of the state forests and forest land held by the state for the purposes and benefit of the common schools and state institutions.~~

Section 8. Section 76-13-106, MCA, is amended to read:

"76-13-106. Cooperation between department of state lands and county. The ~~department of state lands and the~~ county governing body shall cooperate with the department to the extent legally permissible in providing means and methods of safeguarding the forest land lying within the state and in preventing fire nuisance thereon. The ~~department of state lands and the~~ county governing body shall list forest lands under ~~their~~ its jurisdiction with the department for forest protection. The money the state and counties become liable for under this section shall be paid from funds provided by law for the protection of the forest lands owned by the state and counties."

Section 9. Section 76-13-109, MCA, is amended to read:

"76-13-109. Rules -- limitation on rulemaking authority. ~~(1)~~ The board may adopt and enforce through the department reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this part and part 2.

~~(2) These rules may not conflict with the powers of the board of land commissioners."~~

Section 10. Section 80-8-110, MCA, is amended to read:

"80-8-110. Cooperation with other agencies. (1) The department of agriculture may cooperate with agencies of this state or its subdivisions or with any agency of any other state or the federal government for the purpose of carrying out the provisions of this chapter, securing uniformity of rules, and entering into reciprocal licensing and certification agreements with other states.

(2) The department of agriculture and the department of health and environmental sciences shall enter into a memorandum of agreement concerning the inspection, regulation, and responsibilities of persons or activities that may be involved in the management, disposal, storage, transportation, treatment, recycling, or recovery of hazardous wastes and the disposal of solid wastes.

(3) For the purpose of this section, "solid waste" means all putrescible and nonputrescible wastes including

1 but not limited to garbage; rubbish; refuse; hazardous
 2 wastes; ashes; sludge from sewage treatment plants, water
 3 supply treatment plants, or air pollution control
 4 facilities; construction and demolition wastes; dead
 5 animals, including offal; discarded home and industrial
 6 appliances; and wood products or wood byproducts and inert
 7 materials. Solid waste does not mean municipal sewage,
 8 industrial wastewater effluents, mining wastes regulated
 9 under the mining and reclamation laws administered by the
 10 department of state---lands natural resources and
 11 conservation, slash and forest debris regulated under laws
 12 administered by the department of natural---resources---and
 13 conservation state lands, or marketable wood byproducts.

14 (4) For the purpose of this section, "hazardous waste"
 15 means any waste or combination of wastes of a solid, liquid,
 16 contained gaseous, or semisolid form which may cause or
 17 contribute to an increase in mortality or an increase in
 18 serious illness, taking into account the toxicity of the
 19 waste, its persistence and degradability in nature, its
 20 potential for assimilation or concentration in tissue, and
 21 other factors that may otherwise cause or contribute to
 22 adverse acute or chronic effects on the health of persons or
 23 other living organisms. Hazardous wastes include but are not
 24 limited to those which are toxic, radioactive, corrosive,
 25 flammable, irritants, strong sensitizers, or which generate

1 pressure through decomposition, heat, or other means,
 2 excluding wood chips and wood used for manufacturing or fuel
 3 purposes."

4 Section 11. Section 82-4-103, MCA, is amended to read:
 5 "82-4-103. Definitions. When used in this part, unless
 6 a different meaning clearly appears from the context the
 7 following definitions apply:

8 {1}--"Board"--means--the-board-of-land-commissioners-as
 9 provided-for-in-Article-Xv-section-4v-of-the-constitution-of
 10 this-state.

11 {2}{1} "Department" means the department of state
 12 lands natural resources and conservation provided for in
 13 Title 2, chapter 15, part 32 33.

14 {2} "Director" means the director of natural resources
 15 and conservation.

16 {3} "Mineral" means mineral as defined in
 17 82-4-203(12).

18 {4} "New mine" means a strip- or underground-mining
 19 operation proposed for an area of land which the department
 20 determines, because of distance from an existing strip-mine
 21 or underground-mine operation or their respective facilities
 22 or because of important differences in topography, soils,
 23 wildlife, geologic structure, aquifers, or vegetation from
 24 an existing strip-mine or underground-mine operation, does
 25 not constitute an expansion of an existing operation.

(5) "Operation" means all of the premises, facilities, railroad loops, roads, power lines, and equipment used in the process of producing and removing mineral from a designated strip-mine or underground-mine area.

(6) "Operator" means a person who intends to operate a new strip mine or new underground mine involving the removal of more than 10,000 cubic yards of mineral or overburden.

(7) "Person" means a person, partnership, corporation, association, or other legal entity or any political subdivision or agency of the state.

(8) "Preparatory work" means all on-site disturbances, excluding prospecting, associated with the initiation of a new strip mine or underground mine, including but not limited to the construction of railroad spurs or loops, buildings to house mining operations, roads, storage and train load-out facilities, transmission lines, erection of draglines and loading shovels, and other associated facilities.

(9) "Strip mining" means any part of the process followed in the production of mineral by the opencut method, including mining by the auger method or any similar method which penetrates a mineral deposit and removes mineral directly through a series of openings made by a machine which enters the deposit from a surface excavation or any other method or process in which the strata or overburden is

removed or displaced in order to recover the mineral.

(10) "Underground mining" means any part of the process followed in the production of a mineral such that vertical or horizontal shafts, slopes, drifts, or incline planes connected with excavations penetrating the mineral stratum or strata are utilized."

Section 12. Section 82-4-223, MCA, is amended to read:

"82-4-223. Permit fee and surety bond. (1) An application fee of \$50 shall be paid before the permit required in this part shall be issued.

(2) Before a permit may be issued, the operator shall file with the department a bond payable to the state of Montana with surety satisfactory to the department in the penal sum to be determined by the board,--on--the recommendation-of-the-commissioner, department of not less than \$200 for each acre or fraction thereof of the area of land affected, with a minimum bond of \$10,000, conditioned upon the faithful performance of the requirements set forth in this part and of the rules of--the--board adopted under this part. The operator may elect to deposit cash, negotiable bonds, or negotiable certificates of deposit of any bank organized or transacting business in the United States. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area. The level of bonding shall be

1 relative to the degree of disturbance projected by the
2 original permit and the annual report. A political
3 subdivision or agency of the state need not file a bond
4 unless required to do so by the board department. The board
5 department shall adjust the amount of bond required if the
6 cost of reclamation changes.

7 (3) In determining the amount of the bond, the board
8 department shall take into consideration the character and
9 nature of the overburden, the future suitable use of the
10 land involved, and the cost of backfilling, grading,
11 highwall reduction, subsidence stabilization, water control,
12 topsoiling, and reclamation to be required, but in no event
13 shall the bond be less than the total estimated cost to the
14 state of completing the work described in the reclamation
15 plan."

16 Section 13. Section 82-4-303, MCA, is amended to read:

17 "82-4-303. Definitions. As used in this part, unless
18 the context indicates otherwise, the following definitions
19 apply:

20 (1) "Abandonment of surface or underground mining" may
21 be presumed when it is shown that continued operation will
22 not resume.

23 ~~(2) --"Board"--means--the--board--of--land--commissioners--or~~
24 ~~such--state--employee--or--state--agency--as--may--succeed--to--its~~
25 ~~powers--and--duties--under--this--part~~

1 ~~(3)(2) "Department" means the department of state~~
2 ~~tends natural resources and conservation.~~

3 ~~(3) "Director" means the director of natural resources~~
4 ~~and conservation.~~

5 (4) "Disturbed land" means that area of land or
6 surface water disturbed, beginning at the date of the
7 issuance of the permit, and it comprises that area from
8 which the overburden or minerals have been removed and
9 tailings ponds, waste dumps, roads, conveyor systems, leach
10 dumps, and all similar excavations or covering resulting
11 from the operation and which have not been previously
12 reclaimed under the reclamation plan.

13 (5) "Exploration" means all activities conducted on or
14 beneath the surface of lands resulting in material
15 disturbance of the surface for the purpose of determining
16 the presence, location, extent, depth, grade, and economic
17 viability of mineralization in those lands, if any, other
18 than mining for production and economic exploitation, as
19 well as all roads made for the purpose of facilitating
20 exploration, except as noted in 82-4-305 and 82-4-310.

21 (6) "Mineral" means any ore, rock, or substance, other
22 than oil, gas, bentonite, clay, coal, sand, gravel,
23 phosphate rock, or uranium, taken from below the surface or
24 from the surface of the earth for the purpose of milling,
25 concentration, refinement, smelting, manufacturing, or other

1 subsequent use or processing or for stockpiling for future
2 use, refinement, or smelting.

3 (7) "Mining" commences at such time as the operator
4 first mines ores or minerals in commercial quantities for
5 sale, beneficiation, refining, or other processing or
6 disposition or first takes bulk samples for metallurgical
7 testing in excess of aggregate of 10,000 short tons.

8 (8) "Person" means any person, corporation, firm,
9 association, partnership, or other legal entity engaged in
10 exploration for or development or mining of minerals on or
11 below the surface of the earth.

12 (9) "Reclamation plan" means the operator's written
13 proposal, as required and approved by the board department,
14 for reclamation of the land that will be disturbed, which
15 proposal shall include, to the extent practical at the time
16 of application for an operating permit:

17 (a) a statement of the proposed subsequent use of the
18 land after reclamation;

19 (b) plans for surface gradient restoration to a
20 surface suitable for the proposed subsequent use of the land
21 after reclamation is completed and the proposed method of
22 accomplishment;

23 (c) the manner and type of revegetation or other
24 surface treatment of disturbed areas;

25 (d) procedures proposed to avoid foreseeable

1 situations of public nuisance, endangerment of public
2 safety, damage to human life or property, or unnecessary
3 damage to flora and fauna in or adjacent to the area;

4 (e) the method of disposal of mining debris;

5 (f) the method of diverting surface waters around the
6 disturbed areas where necessary to prevent pollution of
7 those waters or unnecessary erosion;

8 (g) the method of reclamation of stream channels and
9 stream banks to control erosion, siltation, and pollution;

10 (h) such maps and other supporting documents as may be
11 reasonably required by the department; and

12 (i) a time schedule for reclamation that meets the
13 requirements of 82-4-336.

14 (10) (a) "Small miner" means a person, firm, or
15 corporation that engages in the business of mining, that
16 does not remove from the earth during any calendar year
17 material in excess of 36,500 tons in the aggregate, that
18 holds no operating permit under 82-4-335, and that conducts:

19 (i) operations resulting in not more than 5 acres of
20 the earth's surface being disturbed and unreclaimed; or

21 (ii) two operations which disturb and leave unreclaimed
22 less than 5 acres per operation if the respective mining
23 properties are:

24 (A) the only operations engaged in by the person,
25 firm, or corporation;

1 (B) at least 1 mile apart at their closest point; and

2 (C) not operated simultaneously except during seasonal
3 transitional periods not to exceed 30 days.

4 (b) For the purpose of this definition only, the
5 department shall, in computing the area covered by the
6 operation, exclude access or haulage roads that are required
7 by a local, state, or federal agency having jurisdiction
8 over that road to be constructed to certain specifications
9 if that public agency notifies the department in writing
10 that it desires to have the road remain in use and will
11 maintain it after mining or exploration ceases.

12 (11) "Surface mining" means all or any part of the
13 process involved in mining of minerals by removing the
14 overburden and mining directly from the mineral deposits
15 thereby exposed, including but not limited to open-pit
16 mining of minerals naturally exposed at the surface of the
17 earth, mining by the auger method, and all similar methods
18 by which earth or minerals exposed at the surface are
19 removed in the course of mining. Surface mining does not
20 include the extraction of oil, gas, bentonite, clay, coal,
21 sand, gravel, phosphate rock, or uranium or excavation or
22 grading conducted for on-site farming, on-site road
23 construction, or other on-site building construction.

24 (12) "Underground mining" means all methods of mining
25 other than surface mining.

1 (13) "Unit of surface-mined area" means that area of
2 land and surface water included within an operating permit
3 actually disturbed by surface mining during each 12-month
4 period of time, beginning at the date of the issuance of the
5 permit, and it comprises and includes the area from which
6 overburden or minerals have been removed, the area covered
7 by mining debris, and all additional areas used in surface
8 mining or underground mining operations which by virtue of
9 such use are thereafter susceptible to erosion in excess of
10 the surrounding undisturbed portions of land.

11 (14) "Vegetative cover" means the type of vegetation,
12 grass, shrubs, trees, or any other form of natural cover
13 considered suitable at time of reclamation."

14 Section 14. Section 82-4-306, MCA, is amended to read:

15 "82-4-306. Confidentiality of application information.
16 Any and all information obtained by the ~~board or by the~~
17 ~~director or his staff department~~ by virtue of applications
18 for exploration licenses and all information obtained from
19 small miners is confidential between the ~~board department~~
20 and the applicant, except as to the name of the applicant
21 and the county of proposed operation; provided that all
22 activities conducted subsequent to exploration and other
23 associated facilities shall be public information and
24 conducted under a development or operating permit. It is
25 further provided that any information obtained by the ~~board~~

1 or-by-the-director-or-his-staff ~~department~~ by virtue of such
 2 applications is properly admissible in any hearing conducted
 3 by the ~~director-the-board,-appeals-board,~~ ~~department~~ or in
 4 any judicial proceeding to which the ~~director~~ ~~department~~ and
 5 the applicant are parties and is not confidential when a
 6 violation of the part or rules has been determined by the
 7 department or by judicial order. Failure to comply with the
 8 secrecy provisions of this part shall be punishable by a
 9 fine of up to \$1,000."

10 Section 15. Section 82-4-321, MCA, is amended to read:

11 "82-4-321. Administration. The ~~board~~ ~~department~~ is
 12 charged with the responsibility of administering this part.
 13 In order to implement its terms and provisions, the ~~board~~
 14 ~~department~~ shall from time to time promulgate such rules as
 15 the ~~board~~ ~~department~~ shall deem necessary. ~~The--board--may~~
 16 ~~delegate--such--powers,-and--functions--to--the~~
 17 ~~department-as-it-deems-necessary-for-the-performance-of--its~~
 18 ~~duties--as--administrator-of-this-part.~~ The ~~board~~ ~~department~~
 19 shall employ experienced, qualified persons in the field of
 20 mined-land reclamation who, for the purpose of this part,
 21 are referred to as supervisors."

22 Section 16. Section 82-4-421, MCA, is amended to read:

23 "82-4-421. Administration -- delegation of functions.
 24 The ~~board~~ ~~department~~ is the administrator of this part, and
 25 it has all the power necessary to implement and enforce it.

1 ~~The--board--may--delegate-to-the-commissioner-of-state-lands~~
 2 ~~such-powers,-duties,-and-functions-under--this--part--as--it~~
 3 ~~considers-necessary-for-the-performance-of-its-duties."~~

4 Section 17. Section 82-4-427, MCA, is amended to read:

5 "82-4-427. ~~Board--hearing~~ ~~Hearing~~. (1) A person who is
 6 aggrieved by a ~~final~~ decision of the ~~commissioner--of--state~~
 7 ~~lands~~ ~~department~~ is entitled to a hearing before the ~~board~~
 8 ~~department~~.

9 (2) The Montana Administrative Procedure Act governs
 10 hearings ~~before--the-board~~ and judicial review of decisions
 11 ~~of-the-board~~ under this part."

12 Section 18. Severability. If a part of this act is
 13 invalid, all valid parts that are severable from the invalid
 14 part remain in effect. If a part of this act is invalid in
 15 one or more of its applications, the part remains in effect
 16 in all valid applications that are severable from the
 17 invalid applications.

18 Section 19. Transition. The provisions of 2-15-131
 19 through 2-15-137 apply to the transfer of functions under
 20 this act.

-End-

SB 258

FORTY-SEVENTH LEGISLATIVE SESSION

SENATE BILLS

COMMITTEE ON NATURAL RESOURCES

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
16	1/8/81	1/28/81	2/4/81			2/4/81			
65	1/8/81	1/30/81	let die						
80	1/8/81	1/28/81	2/2/81	2/2/81					
95	1/10/81	1/23/81	1/23/81		1/23/81				
123	1/14/81	1/26/81	1/31/81			1/31/81			
138	1/15/81	2/2/81	2/13/81			2/13/81			
139	1/15/81	2/2/81	2/13/81			2/13/81			
140	1/15/81	2/2/81	2/13/81			2/13/81			
141	1/15/81	1/23/81	1/23/81			1/23/81			
165	1/17/81	1/28/81	2/2/81			2/2/81			
196	1/21/81	2/2/81	2/13/81	2/13/81					
205	1/20/81	2/4/81	2/6/81		2/6/81				
229	1/21/81	2/2/81	2/13/81			2/13/81			
244	1/22/81	2/6/81	2/6/81	2/6/81					
258	1/23/81	2/11/81	2/20/81			2/20/81			
278	1/26/81	2/6/81	2/6/81	2/6/81					

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OF MONTANA

(Use Separate Sheet for Senate, House Bills, and Resolutions)

Senator Keating said that you have 15 days after you stop the water to notify them and then they come out and fine you.

Senator Brown said under Section 3 you can do anything, including diverting the whole river, if that is what it takes to stop the problem and then within 15 days you must report it.

Senator Hafferman said that he couldn't understand why the Legislative Council went ahead and drafted the bill.

Senator Brown said that you are doing more than just dealing with emergencies in this bill.

Senator Ryan stated that the provision to take care of an emergency, which talks about response when the need arises, who do you call to get a response. The penalty section is a little shakey.

Senator Van Valkenburg said that the amendments submitted by James Flynn would clarify the bill.

Senator Tveit asked what the definition is of team.

Senator Manley said a team is the members of the conservation district of whatever district you are in.

Wilbur Rehmann explained that members of the team are defined in a separate section. The team would include a representative of the applicant himself and also a member of the Department of Fish, Wildlife and Parks.

CONSIDERATION OF SB 258:

AN ACT TO TRANSFER FORESTRY FUNCTIONS OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
TO THE DEPARTMENT OF STATE LANDS; TO TRANSFER
THE MINE SITING AND RECLAMATION FUNCTIONS OF THE
DEPARTMENT OF STATE LANDS TO THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION

Senator Brown, District #15, presented this bill to the committee. The purpose of this bill is to continue a reorganization of the branches of government. This bill is the first step toward a further consolidation of environmental functions. Senator Keating will be offering some amendments to this bill that would address further consolidation of these agencies. Senator Brown gave a lengthy explanation with reasons and justification for this reorganization.

Senator Keating removed himself from the committee to testify in support of this bill and his proposed amendments to this bill, which would transfer the Air Quality Board and Water Quality Board from the Department of Health and Environmental Services to the Department of Natural Resources and Conservation. His written testimony and a copy of proposed amendment is attached.

Gareth Moon, Land Commissioner, gave testimony in support of this bill. (copy attached)

Pat Wilson, representing MONTCO coal company, supports this bill. She stated that the coal council is very interested in a one stop permitting system. They are very much in favor of this bill and the amendments proposed by Senator Keating.

Leo Barry, Director, Department of Natural Resources, stated he was Land Commissioner for 5 years and during that period of time his experience has led him to believe that the Division of Forestry belongs more properly with the Department of State Lands. Also, the move from the Reclamation Division to the Department of Natural Resources is more practical and would more properly serve the people of Montana. He advised this will not solve all the problems but during the transition phase they will be able to look at the entire permitting process more clearly and hopefully consolidate as much as possible with the Department of Natural Resources. He feels Senator Keating's amendments would be a significant change and thinks there should be a hearing on that proposal to find out if there are any problems that we are not aware of at this time.

Dana Christensen, Westmoreland Resources, Inc., supports this bill and is very much in favor of the amendments as proposed by Senator Keating. It is clear that the consolidation of functions is a good idea. In December the Commissioner of State Lands came to Billings to discuss the proposal of changing Forestry and Reclamation. The Coal Council and Westmoreland voted in favor of one stop permitting. SB 258 should be amended to include the transfer of air and water quality. Mr. Christensen presented the committee with charts explaining the proposed moves. (copy attached)

Robert N. Holding, Attorney, Montana Wood Products Association, supports the transfer of Forestry to the Land Commission, stating that Gareth Moon was the State Forester of Montana for 27 years and that the State of Montana is in good hands in forestry with Mr. Moon in charge. The transfer of Reclamation to the Department of Natural Resources and Conservation makes sense and he is in favor of this. Mr. Holding supports the original bill but cannot support Mr. Keating's amendments until he has been able to review them.

Keith Olson, Montana Logging Association, supports this bill. He stated that the forestry function should be at the Department of State Lands.

Bill Sternhagen, A. W. Mining Association, supports this bill, especially Senator Keating's amendments, which would give the mining association one stop permitting and hopefully even one place permitting.

Pat Wilson, representing MONTCO, agrees with the other proponents to this bill and the amendments submitted by Senator Keating. This bill would allow one stop permitting which would consolidate time, in that the permits could all be applied for at the same time.

Clyde Smith, Smith Logging, Inc., is in favor of this bill as it would allow Gareth Moon to continue as head of forestry.

There being no other proponents wishing to testify, Chairman Dover asked for opponents.

Steve Elliot, Wesco Resources, Inc., is opposed to SB 258 as it is stated but would be in favor of the bill if Senator Keating's amendments are accepted by the committee. He said that we should not follow personalities from one division to another because they only last for a short period. You should make a determination on what you want to do with the law based on practicality.

Chairman Dover asked for questions from the committee.

Senator Manley asked Senator Brown if it would be possible to keep the Department of Land functions from going to the Department of Natural Resources.

Senator Brown said no.

Senator Manley asked if there was a way they wouldn't have to go that far.

Senator Brown said the real issue here is if a coal company can come in for a mining permit and can get everything they need at the same time so that the time frame is running concurrent on permits. The function you are referring to would be in a different department.

Senator Van Valkenburg asked Mr. Elliot, why would you object to the move of Reclamation to the Department of Natural Resources, without the transfer of functions from Health and Environmental Sciences to the Department of Natural Resources. If you are seeking one stop permitting, of some nature or another, it would seem that you would be getting half of the pie. Why do you need the entire pie?

Mr. Elliot said that it seemed that we already have that pie in State Lands now and have been living with it.

Senator Van Valkenburg said but you have to go to get permits from the Department of Natural Resources in terms of the work that they do.

Mr. Elliot said when it comes to opening a surface mine those functions are in the Department of Natural Resources. We do have to get air quality and water quality permits, which come out of the Department of Health, but he doesn't know why Reclamation should go to the Department of Natural Resources as he doesn't have to obtain a permit to open a surface mine from them.

Dana Christensen said that from Reclamation you would get the Major Facility Siting and mining permit.

Senator Etchart asked Leo Barry to answer Senator Van Valkenburg's last question.

Leo Barry said that Mr. Christensen has addressed a portion of the question. Another permit must be obtained to appropriate water at most mines. In addition there will be proposals for Tenneco operations where you will have a combination of coal mines and power plants.

Senator Dover asked what the cost would be to transfer these functions.

Leo Barry said that he had not looked at what it will cost for this transfer. There is a proposal for a new building for the Department of Natural Resources. We did not get the old highway building and as a result the Department is located in four different buildings. Administration is difficult. If the proposals were to take place with transfer of Reclamation and Air and Water Quality, we would be in seven different buildings. The long range cost of this transfer would have to be looked at. He feels the state would benefit in the long run.

Senator Dover asked if room will be a problem after relocation.

Leo Barry said that he is not familiar with air and water quality. When he left Department of Lands there was enough room at Lands for these functions. The other transfers will not be a problem.

Senator Dover asked if this law is passed would there be a problem in working the rules together with these departments. How will it work in one department.

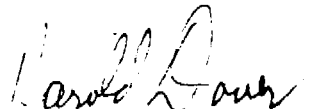
Leo Barry said the rules will automatically transfer with the Department. The problems will not be solved overnight and the interim will be spent putting together a program to consolidate procedures and perhaps that will take legislation. This is a long range program and it will be a two or three year process working it out.

Gareth Moon said that the headquarters of forestry in Montana is in Missoula. The forestry school is located there and the U. S. Forest Service head. He feels the key forestry headquarters should remain in Missoula.

Senator Brown said that Mr. Elliot mentioned that he did not want legislation on the basis of personalities. This transfer was not proposed on the basis of personalities. We were looking at the functions of these departments and whether or not you can get better efficiency and better processing of permits with a transfer. He feels a sub-committee should be appointed to review this bill and Senator Keating's amendments.

Chairman Dover appointed the following for a sub-committee to review SB 258 and Senator Keating's amendments to that bill: Senator Brown, Senator Keating, Senator Manley, Senator O'Hara and Senator Hafferman.

ADJOURNMENT: There being no further business the meeting adjourned at 2:00 P.M.



HAROLD DOVER, Chairman

✓

HEATING.

COMMITTEE ON NATURAL RESOURCES

RE: Amendment to Senate Bill 258 (Brown)

The purpose of this amendment is to transfer the Air Quality Board and Water Quality Board, and their related functions from the Department of Health and Environmental Services to the Department of Natural Resources and Conservation.

Mr. Chairman, Members of the Committee:

The governor has stated that he would like to see our State develop its natural resources without detriment to the environment.

In my campaign in my district I stated to my constituents that I thought we should and could develop our natural resources while protecting our environment.

I still believe that statement.

At the present time, in order to initiate a mineral development project the operator must present his proposal to the various agencies for permits. Each agency specifies a period of time for study and determination. When the operator has satisfied one agency he moves to the next agency and again a period of time is required for study and determination.

As a result the operator ^{can} ~~must~~ expend ^{months, if not} ~~a number of~~ years, obtaining the required permits.

Senate Bill 258 proposes to transfer the Department of Reclamation to the Department of Natural Resources. If the Air Quality and Water Quality Board were also transferred to Natural Resources, the permitting agencies would be in the department. The operator could seek the permits from the agencies concurrently and thereby saving a great deal of time and expense in the system.

Each agency would still enforce the requirements for environmental protection indigenous to its purpose.

However, there would be a coordination between the agencies which would complement one another for a more desirable result. The study and determination handled concurrently by the agencies within the department would not diminish the protection of the environment which is required. It would diminish the amount of time required for permitting.

If the proposed operation is unsuitable, it will not be permitted. If the operation is suitable and desirable, both environmentally and economically, it will be permitted and the regulatory job will have been properly accomplished.

Page 3
RE: SB 258

At the present time the permitting process is so long and expensive only the titans of the industry can afford the capital risk by the long and expensive permitting processes. If the permitting process is shortened, without diminishing the regulations, the smaller businesses in the various development industries can afford the expense and capital risk made possible by the shorter processes.

I think that a shortening of the permitting process would encourage more development and thereby benefiting our economy and our citizens.

Such acceptable and desirable projects would provide jobs and increase tax revenues in various locales to the benefit of the entire state.

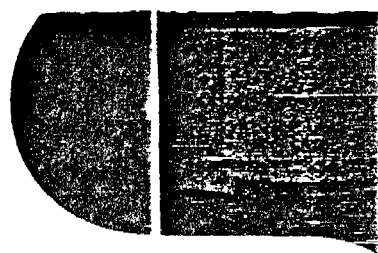
I urge your positive acceptance of this proposal.



GARETH MOON

Harold Dover, Chm

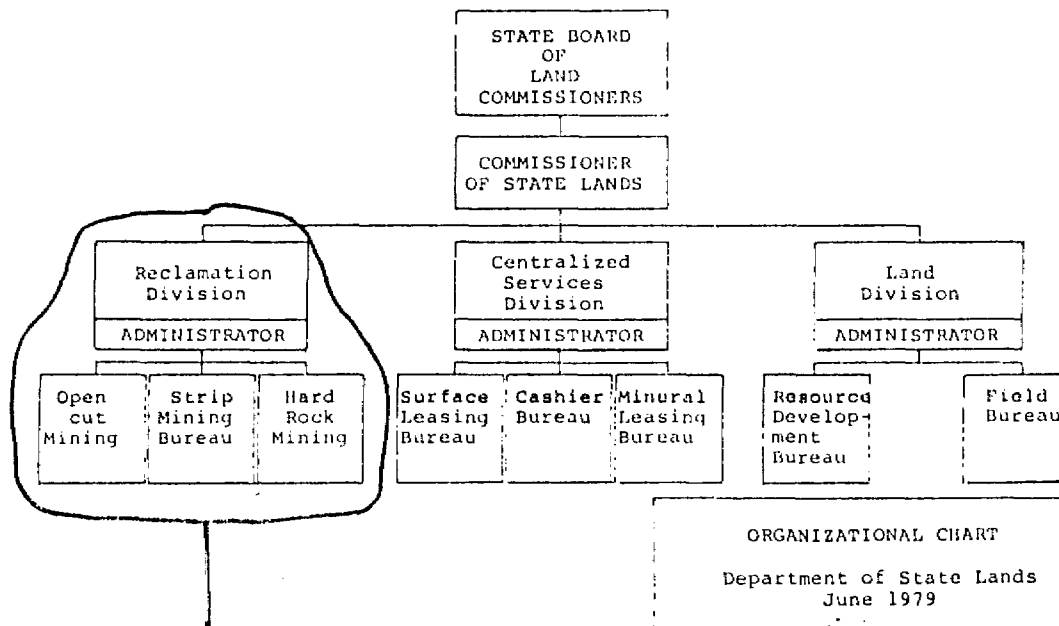
SB 258 - Proponent

- My name is Gareth C. Moon, Commissioner of State Lands.
 - Past 27 years as State Forester.
 - Experience tells me that State Forestry is more compatible with State Lands than DNRC.
~~Harold Dover~~
 - The state forests managed and protected by State Forester are state-owned and come under jurisdiction of Land Board.
 - All recommendations of State Forester have to pass through Director of DNRC to get to Land Board. Sometimes Director of DNRC does not agree with Land Board.
 - The way it is structured today, State Forester must serve two bosses - even the Bible cautions against serving two masters.
 - Short time in Lands, believe two agencies can be merged quite easily and would complement each other - eventually this would make cost savings to both Forestry and Lands - then taxpayers.
 - Closer working relations between Forestry and Lands that could only come about through a merger would make both organizations more efficient.
- 

State Lands

26.1.101

DEPARTMENT OF STATE LANDS



Transfer to Dept. of
Natural Resources
(S.B. 258)

26-5

7/1/80

ADMINISTRATIVE RULES OF MONTANA

ORGANIZATIONAL CHART

Department of State Lands
June 1979

[Signature]
Commissioner

[Signature]
Governor

SB 258

PROPOSED AMENDMENT

On Page 1, line 8

Following: "OF THE"

Insert: "BOARD OF LAND COMMISSIONERS AND"

Natural Resources Minutes
February 20, 1981
Page Three

Senator Ryan asked Senator Hafferman if he was satisfied with this bill.

Senator Hafferman said they have weakened my bill, but if its all I can get I'll take it.

Senator Dover said we have not weakened the bill, just taken out the parts of the bill that should not have been there in the first place which do not refer to emergencies.

Senator Manley said we have taken out the emergency. This will not restrict land owners when it is necessary to protect lives, property and economic well being.

The motion passed with a vote of 11 for and 1 opposed, Senator Ryan.

DISPOSITION OF SB 482: Senator Brown said this is a backward way of setting up a profession even though Sid Groff is well intended.

Senator Manley made a motion to do pass.

Senator Van Valkenburg said if we are going to act on a do pass, I would like the bill amended to adopt the Morrison amendment and Groff amendment.

Senator O'Hara made a substitute motion that SB 482 do not pass.

The motion passed with a vote of 11 for and 1 opposed, Senator Van Valkenburg.

DISPOSITION OF SB 258: Senator Keating furnished the committee with a letter from the Director, Department of Health and Environmental Sciences, which gave reasons for opposition to SB 430, proposed as an amendment to SB 258.

Senator Dover asked Mr. Steven Pilcher, Chief, Water Quality Bureau, if he would quickly run over Dr. Drynan's letter.

Mr. Pilcher said he didn't feel he could give the letter justice by just briefly running through what it had to say. He requested that the committee at least take the time to read through Dr. Drynan's conclusions.

Senator Brown suggested that Senator Keating could summarize the sub-committee actions while the committee was looking at Dr. Drynan's conclusions.

Senator Keating explained that one of the things that has been going on in the state has been an attempt to try to bring the extremes together. People of the state are saying we have to have more development of our natural resources to help to improve our economy

and provide jobs, but we still want to have clean air and water. In order to work toward this goal to develop our natural resources numerous permits are needed in order to get anything going and these permits are acquired from various agencies. In order to streamline activities we are proposing to coordinate air and water quality, facility siting and natural resources mining permits into a single department for purposes of administration. We are not working for a single permit but working for a closer coordination and better understanding. Senator Brown, at the governor's request, is submitting SB 258 to change the Bureau of Reclamation from State Lands to the Department of Natural Resources and Forestry from Natural Resources to State Lands. I am asking for an amendment to his bill to include the transfer of Air Quality, Water Quality, Subdivisions Bureau and Solid Waste Management from Environmental Sciences to the Department of Natural Resources. They are all a part of the permitting process. If these agencies were in the same department, with a single director, there would be a better administration of that process.

Senator Ryan objected to the procedure of the meeting. He said this is a very irregular executive session, giving explanation for the bill and Mr. Pilcher giving his opinion.

Senator Etchart said Senator Ryan is out of line, the Chairman asked the subcommittee to report.

Senator Brown said we were not soliciting testimony. When we met in subcommittee Mona Jamison, Governor's Office, said that Dr. Drynan as Director of the Department of Health and division that would be most affected by the proposed transfer, would like the opportunity to submit a written statement outlining objections to the transfer. We had to take action in the subcommittee to report here today. The letter was prepared with the understanding the letter would be presented to the committee today. Mr. Pilcher was requested by the committee to summarize this letter. We had no intention of reopening the hearing.

Senator Ryan withdrew his objections.

Senator Dover asked if the sample amendment Katherine had given him was the machinery to get SB 430 into SB 258.

Senator Keating said yes and he made a motion that SB 258 do pass as amended.

Senator Van Valkenburg asked the Chairman if this is the recommendation of the subcommittee.

Senator Keating said yes.

Senator Van Valkenburg asked what was the report of the subcommittee, was the subcommittee unanimous on these points.

Senator Keating said yes the subcommittee was unanimous, except for the motion on the effective date of the transfer of the Department of Health functions of October 1, 1982, the vote was 3 to one.

Senator Dover said that Senator Manley was not at the subcommittee meeting to vote.

Senator Brown asked if the committee was clear in a general sense on what the subcommittee recommendations are. It was voted unanimously to -- 1. transfer the air and water quality, subdivisions and solid waste functions from the Health Department to the Department of Natural Resources, 2. the rules and standards set for these agencies would be transferred from the Health Department to the Department of Natural Resources, 3. the authority to hold contested case hearings would be delegated to the Department of Natural Resources. The Director would be the person who would hear all hearings. The standard would be the Board of Natural Resources and Conservation, 4. there would be two new membership requirements to the Board of Natural Resources, a medical doctor and an engineer. The governor's office wanted the effective date for the transfer of the Department of Health functions to be July 1, 1983. I supported that. The other members supported the motion that the transfer was to take place October 1, 1982.

Senator Van Valkenburg asked the governor's position with respect to the amendments.

Senator Brown said the governor's office position is they support the concept and have no objection to what is being proposed. They are aware of legitimate concerns about splitting up the Health Department.

Senator Manning is in favor of this if it will simplify the mechanics for obtaining permits.

Senator Brown said the governor's office did not wish to leave the impression that this would result in one stop permitting. We are not making any substantial changes in the law or reducing standards. He requested that the motion made by Senator Keating authorize work with Katherine to make necessary changes pertaining to the amendments.

Senator Keating said that would be included in the motion.

The motion on the amendments passed with a vote of 9 for, 2 opposed, Senator Van Valkenburg and Senator Manley. Senator Ryan had stepped out of the meeting for a few moments.

Senator Keating made a motion that SB 258 do pass as amended. The motion passed with a vote of 9 for, 2 opposed, Senator Manley and Senator Van Valkenburg. Senator Ryan had not returned.

STANDING COMMITTEE REPORT

February 20,

81

19

PRESIDENT

MR.

NATURAL RESOURCES

We, your committee on

SENATE

having had under consideration

Bill No. **258**

Respectfully report as follows: That

SENATE

Bill No. **258**

be amended as follows:

1. Title, line 9.

Following: "LANDS"

Insert: "AND THE BOARD OF LAND COMMISSIONERS"

2. Title, lines 10 through 13.

Following: "CONSERVATION;" on line 10

Strike: "AMENDING" through "82-4-427, MCA."

Insert: "TO TRANSFER FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION THE REGULATORY FUNCTIONS RELATING TO AIR AND WATER QUALITY, PUBLIC WATER SUPPLY, SANITATION IN SUBDIVISIONS, MAJOR FACILITY SITING, SOLID WASTE, AND OTHER MISCELLANEOUS FUNCTIONS; TO TRANSFER THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES' RULE-MAKING AUTHORITY TO THE BOARD OF NATURAL RESOURCES AND CONSERVATION; TO TRANSFER THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES' RULE-MAKING AUTHORITY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; TO TRANSFER THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES' CONTESTED CASE AUTHORITY

(continued)

February 20,

19 81

TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; TO REQUIRE THAT THE MEMBERSHIP OF THE BOARD OF NATURAL RESOURCES INCLUDE ONE ENGINEER AND ONE MEDICAL DOCTOR; TO GENERALLY REVISE THE LAWS TO CONFORM TO THE TRANSFER; REPEALING SECTION 75-5-502, MCA, AND PROVIDING EFFECTIVE DATES."

3. Page 22, line 12

Following: line 11

Insert: the attached sections 18 through 50, and,

"Section 51. Section 2-15-3302, MCA, is amended to read:

"2-15-3302. Board of natural resources and conservation -- composition -- quasi-judicial. (1) There is a Board of natural resources and conservation.

(2) The board is composed of seven members, appointed by the governor as prescribed in 2-15-124, informed and experienced in the subjects of natural resources and conservation. One member shall be a medical doctor licensed by the board of medical examiners and at least one member shall be an engineer licensed by the board of professional engineers and land surveyors.

(3) The board is designated as a quasi-judicial board for purposes of 2-15-124.

(4) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(5) In addition to carrying out its functions as provided by law, the board shall act in an advisory capacity to the department in all other matters."

"Section 52. Transition for contested cases. Any contested case filed before October 1, 1982 with the board of health shall be concluded with the board of health unless both parties to the action stipulate in writing that the action may be transferred to the department of natural resources and conservation."

Renumber: subsequent sections

4. Page 22

Following: line 20

Insert: "Section 55. Effective dates. (1) The effective date for sections 1 through 17 is October 1, 1981.

(2) The effective date for the attached sections pertaining to the transfer of functions under various environmental acts is October 1, 1982.

(3) The effective date of the requirement that a medical doctor and an engineer sit on the board of natural resources and conservation is January 1, 1982."

"Section 56. Repealer. Section 75-5-502, MCA, is repealed."

And, as so amended
DO PASS

HAROLD DOVER,

Chairman.